



February 11, 2005

SENATE BILL No. 638

DIGEST OF SB 638 (Updated February 9, 2005 6:18 pm - DI 87)

Citations Affected: IC 36-6.

Synopsis: Merger of townships. Allows township governments to merge upon the adoption of identical resolutions by the township boards (presented to the township boards by the township trustees) and an ordinance by the county legislative body. Allows merged township governments to dissolve the merged government and be reestablished as separate governments upon adoption of an ordinance by the county legislative body.

Effective: July 1, 2005.

Ford, Clark

January 24, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
February 10, 2005, amended, reported favorably — Do Pass.

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SB 638—LS 7978/DI 87+



February 11, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 638

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 36-6-1.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2005]:

4 **Chapter 1.5. Merger of Township Governments**

5 **Sec. 1. This chapter does not apply to a township in a county**
6 **containing a consolidated city.**

7 **Sec. 2. As used in this chapter, "former township government"**
8 **means a township government that merges with at least one (1)**
9 **other township government under this chapter.**

10 **Sec 3. As used in this chapter, "new township government"**
11 **means the township government that results from the merger of at**
12 **least two (2) township governments under this chapter.**

13 **Sec. 4. (a) At least two (2) township governments may merge to**
14 **form one (1) township government under this chapter, if:**

15 **(1) the township governments are entirely located within the**
16 **same county;**

17 **(2) all the territory within the township governments is**

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subject to the merger; and

(3) each township whose government is subject to the merger is contiguous to at least one (1) other township whose government is subject to the merger.

Sec. 5. (a) The township trustees, with the approval of a majority of the members of the township legislative body of each township that wants to merge township governments under this chapter must comply with this section.

(b) The township trustees must present identical resolutions approving the township government merger to the trustees' respective township legislative bodies. A township legislative body may adopt a resolution under this chapter only after the legislative body has held a public hearing concerning the proposed merger. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1.

(c) The township legislative bodies may adopt the identical resolutions approving the township government merger under this chapter not later than ninety (90) days after the legislative body has held the public hearing under subsection (b). The townships shall submit the resolutions to the county legislative body of the county within which the townships are located.

(d) The county legislative body of the county where the township governments are located must:

- (1) adopt an ordinance ordering the merger; and
- (2) file a copy of the ordinance with:
 - (A) the circuit court clerk; and
 - (B) the office of the secretary of state.

(e) The county legislative body may not adopt an ordinance ordering a merger after January 1 of a year in which:

- (1) a general election is held; and
- (2) a township trustee is elected.

(f) The county legislative body may not adopt an ordinance merging township governments less than one (1) year before the merger becomes effective.

(g) A merger under this chapter may not reduce the term of a township trustee of a former township government.

Sec. 6. The merger becomes effective when the officers of the new township government are elected and qualified. An officer elected to represent the merged township government shall be

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considered to be a resident of the territory comprising the new township government unless the township merger is dissolved under IC 36-6-1.6.

Sec. 7. If township governments merge under this chapter:

(1) IC 36-6-6 applies to the election of the township board;
and

(2) IC 36-6-5-1 applies to the election of a township assessor;
of the new township government.

Sec. 8. On the date a merger takes effect:

(1) the former township governments are abolished as separate entities;

(2) each township subject to the merger retains its geographical boundaries and its name;

(3) the territory of the new township government includes all the territory that comprised the territories of the former township governments before the merger;

(4) the agencies of the former township governments are abolished;

(5) the functions of the abolished agencies are assigned to agencies of the new township government;

(6) the:

(A) property;

(B) records;

(C) personnel;

(D) rights; and

(E) liabilities;

related to the functions of the abolished agencies are assigned to agencies of the new township government; and

(7) any bonds and other indebtedness of, or assumed by, the former township governments are transferred to the new township government.

Sec. 9. Upon the corporate dissolution of a township government under this article, the following apply for purposes of all state and federal licensing and regulatory laws, statutory entitlements, gifts, grants-in-aid, governmental loans, or other governmental assistance under state or federal statutes, rules, or regulations:

(1) The entire geographic area and population of a new township government that is established under this chapter shall be used when calculating and determining the distribution basis for the following:

(A) State or federal government statutory entitlements.

(B) Gifts.

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(C) Grants-in-aid.

(D) Loans.

(E) Any form of governmental assistance that is not listed in this subdivision.

(2) Following a public hearing for which notice is published in accordance with IC 5-3-1 at least thirty (30) days before the public hearing takes place, the executive of a new township government that is established under this chapter shall determine and designate to the appropriate state or federal agency the:

(A) geographic areas;

(B) parts of roads;

(C) segments of population; or

(D) combinations of the items listed in clauses (A) through (C);

that constitute rural or urban areas, roads, or populations, if this designation was previously required of any township that merges under this chapter.

Sec. 10. When a new township government is established under this chapter, the following occur:

(1) The resolutions, rules, and bylaws of each of the former township governments:

(A) remain in force within the territory to which they applied before the merger; and

(B) continue in force until amended or repealed by the legislative body or an administrative body of the new township government.

(2) Pending actions that involve any former township government shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the new township government without any change of the name of the plaintiff or defendant.

Sec. 11. (a) On the date the formation of a new township government takes effect, all money in the funds of each of the former township governments is transferred to the new township government. The new township government:

(1) shall deposit the money in its funds that most closely correspond to the funds of the former township governments; and

(2) may use the money to pay its operational and capital costs for the balance of the calendar year.

(b) After the date the formation of a new township government

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takes effect, the new township government is entitled to receive all distributions of taxes and other revenue that would have been made to the former township governments if the merger had not occurred. The new township government shall deposit the money in its funds that correspond most closely to the funds of the former township governments into which the taxes or other revenue would have been deposited if the merger had not occurred.

Sec. 12. The officers of the new township government shall:

(1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:

(A) a budget;

(B) an ad valorem property tax levy; and

(C) a property tax rate;

(2) fix the annual budget under IC 6-1.1-17;

(3) impose a property tax levy; and

(4) take any action necessary to ensure the collection of fees and other revenue;

for the new township government for the budget year following the year the officers take office.

SECTION 2. IC 36-6-1.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 1.6. Dissolution of a Township Government Merger

Sec. 1. As used in this chapter, "merged township government" means the township government that results from the merger of at least two (2) township governments under IC 36-6-1.5.

Sec. 2. As used in this chapter, "reestablished township government" means a township government that:

(1) merged with at least one (1) other township government under IC 36-6-1.5; and

(2) is reestablished as a separate township government under this chapter.

Sec. 3. (a) Freeholders may initiate proceedings to reestablish a township government by filing a petition in the office of the county auditor of the county where the freeholder's land is located. The petition must be signed by the lesser of:

(1) at least ten percent (10%) of; or

(2) at least fifty (50);

freeholders owning land within the proposed reestablished township. A petition may also be filed with the county auditor by a merged township government under a resolution adopted by the legislative body of the township government.

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(b) A county legislative body may adopt an ordinance that:

(1) dissolves a merger of township governments that took effect under IC 36-6-1.5; and

(2) reestablishes the township governments that were subject to the merger.

(c) The county legislative body must file a copy of the ordinance with:

(1) the circuit court clerk; and

(2) the secretary of state.

Sec. 4. (a) A county legislative body may not adopt an ordinance ordering a dissolution under section 3 of this chapter after January 1 of a year in which:

(1) a general election is held; and

(2) a township trustee is elected.

(b) The county legislative body may not adopt an ordinance ordering a dissolution under section 3 of this chapter less than one (1) year before the dissolution takes effect.

(c) A dissolution under this chapter may reduce the term of the township trustee of the merged township government.

Sec. 5. A dissolution under an ordinance adopted under section 3 of this chapter becomes effective when the officers of the reestablished township governments are elected and qualified as set forth in IC 36-6.

Sec. 6. (a) On the date on which a dissolution under an ordinance adopted under section 3 of this chapter takes effect:

(1) the reestablished township governments are established as separate entities;

(2) the territory of the reestablished township government is the same as the territory that comprised the reestablished township government before the merger;

(3) the agencies of the merged township government are abolished and the agencies of the reestablished township governments are established;

(4) the functions of the abolished agencies are assigned to agencies of each reestablished township government;

(5) the:

(A) property;

(B) records;

(C) personnel;

(D) rights; and

(E) liabilities;

related to the functions of the abolished agencies are assigned

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to agencies of the reestablished township governments; and
 (6) any bonds and other indebtedness of, or assumed by, the
 merged township government is the indebtedness of the
 reestablished township governments.

(b) The county legislative body shall determine the distribution
 of property, records, and personnel to the reestablished township
 governments under subsection (a)(5).

Sec. 7. Upon the corporate dissolution of a merged township
 government under this article, the following apply for purposes of
 all state and federal licensing and regulatory laws, statutory
 entitlements, gifts, grants-in-aid, governmental loans, or other
 governmental assistance under state or federal statutes, rules, or
 regulations:

(1) The entire geographic area and population of a
 reestablished township government created under this
 chapter shall be used when calculating and determining the
 distribution basis for the following:

(A) State or federal government statutory entitlements.

(B) Gifts.

(C) Grants-in-aid.

(D) Loans.

(E) Any form of governmental assistance that is not listed
 in this subdivision.

(2) Following a public hearing for which notice is published in
 accordance with IC 5-3-1 at least thirty (30) days before the
 public hearing takes place, the executive of each reestablished
 township government that is created under this chapter shall
 determine and designate to the appropriate state or federal
 agency the:

(A) geographic areas;

(B) parts of roads;

(C) segments of population; or

(D) combinations of the items listed in clauses (A) through
 (C);

that constitute rural or urban areas, roads, or populations, if
 this designation was previously required of the merged
 township government.

Sec. 8. When a reestablished township government is created
 under this chapter, the following occur:

(1) The resolutions, rules, and bylaws of the merged township
 government:

(A) remain in force in the reestablished township

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governments; and

(B) continue in force until amended or repealed by the legislative body or an administrative body of the reestablished township government.

(2) Pending actions that involve the merged township government shall be prosecuted to final judgment and execution, and judgments rendered in those actions may be executed and enforced against the reestablished township governments without any change of the name of the plaintiff or defendant.

Sec. 9. (a) On the date on which the formation of a reestablished township government takes effect under this chapter, all money in the funds of the merged township government is transferred to the reestablished township governments. The county legislative body shall determine the allocation of the funds to the reestablished township governments. The reestablished township governments:

(1) shall deposit the money in the funds that most closely correspond to the funds of the merged township government; and

(2) may use the money to pay operational and capital costs for the balance of the calendar year.

(b) After the date on which the formation of a reestablished township government takes effect under this chapter, the reestablished township government is entitled to receive all distributions of taxes and other revenue that would have been made to the new township government if the merger had not occurred. The allocation of the distributions to the reestablished township governments shall be determined by the county legislative body. A reestablished township government shall deposit the money in its funds that correspond most closely to the funds of the merged township government into which the taxes or other revenue would have been deposited if the dissolution had not occurred.

Sec. 10. The officers of a new reestablished township government shall:

(1) obtain from the department of local government finance approval under IC 6-1.1-18.5-7 of:

(A) a budget;

(B) an ad valorem property tax levy; and

(C) a property tax rate;

(2) fix the annual budget under IC 6-1.1-17;

(3) impose a property tax levy; and

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1 **(4) take any action necessary to ensure the collection of fees**
 2 **and other revenue;**
 3 **for the new township government for the budget year following the**
 4 **year the officers take office.**

5 SECTION 3. IC 36-6-5-1 IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) A township assessor shall be
 7 elected under IC 3-10-2-13 by the voters of each township having:

- 8 (1) a population of more than eight thousand (8,000); or
 9 (2) an elected township assessor or the authority to elect a
 10 township assessor before January 1, 1979.

11 (b) A township assessor shall be elected under IC 3-10-2-14 in each
 12 township having a population of more than five thousand (5,000) but
 13 not more than eight thousand (8,000), if the legislative body of the
 14 township:

- 15 (1) by resolution, declares that the office of township assessor is
 16 necessary; and
 17 (2) the resolution is filed with the county election board not later
 18 than the first date that a declaration of candidacy may be filed
 19 under IC 3-8-2.

20 **(c) A township government that is created by merger under**
 21 **IC 36-6-1.5 shall elect only one (1) township assessor under this**
 22 **section.**

23 ~~(c)~~ **(d)** The township assessor must reside within the township as
 24 provided in Article 6, Section 6 of the Constitution of the State of
 25 Indiana. The assessor forfeits office if the assessor ceases to be a
 26 resident of the township or fails to comply with the requirements of
 27 IC 6-1.1-35-1.1.

28 ~~(d)~~ **(e)** The term of office of a township assessor is four (4) years,
 29 beginning January 1 after election and continuing until a successor is
 30 elected and qualified. However, the term of office of a township
 31 assessor elected at a general election in which no other township
 32 officer is elected ends on December 31 after the next election in which
 33 any other township officer is elected.

34 SECTION 4. IC 36-6-6-2 IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in
 36 subsection (b) **and section 2.1 of this chapter**, a three (3) member
 37 township board shall be elected under IC 3-10-2-13 by the voters of
 38 each township.

39 (b) The township board in a county containing a consolidated city
 40 shall consist of seven (7) members elected under IC 3-10-2-13 by the
 41 voters of each township.

42 (c) The township board is the township legislative body.

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(d) The term of office of a township board member is four (4) years, beginning January 1 after election and continuing until a successor is elected and qualified.

SECTION 5. IC 36-6-6-2.1 IS ADDED TO THE INDIANA CODE AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 2.1. (a) This section applies if township governments merge under IC 36-6-1.5.**

(b) If two (2) township governments merge, the resulting merged township government shall elect a three (3) member township board. The voters of the resulting merged township government shall elect all the members of the township board. One (1) member must reside within the boundaries of each of the township governments that merged.

(c) If at least three (3) township governments merge, the resulting merged township government shall elect a township board that has the same number of members as the number of township governments that merged. The voters of the resulting merged township shall elect all the members of the township board. One (1) township board member must reside within the boundaries of each of the townships that merged.

SECTION 6. IC 36-6-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 3. (a) This subsection applies to townships in a county containing a consolidated city. One (1) member of the legislative body must reside within each legislative body district. If a member of the legislative body ceases to be a resident of the district from which the member was elected, the office becomes vacant.**

(b) This subsection applies to townships not included in subsection (a) or (c). A member of the legislative body must reside within the township as provided in Article 6, Section 6 of the Constitution of the State of Indiana. If a member of the legislative body ceases to be a resident of the township, the office becomes vacant.

(c) This subsection applies to a township government that:

(1) is created by a merger of township governments under IC 36-6-1.5; and

(2) elects a township board under section 2.1 of this chapter. One (1) member of the legislative body must reside within the boundaries of each of the former townships that merged. If a member of the legislative body ceases to be a resident of that former township, the office becomes vacant.

SECTION 7. IC 36-6-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4. (a) Except as provided in subsection subsections (b) and (c), two (2) members of the legislative**

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1 body constitute a quorum.
 2 (b) Four (4) members of the legislative body in a county containing
 3 a consolidated city constitute a quorum.
 4 **(c) This subsection applies to a township government that:**
 5 **(1) is created by a merger of township governments under**
 6 **IC 36-6-1.5; and**
 7 **(2) elects a township board under section 2.1 of this chapter.**
 8 **A majority of the members of the legislative body constitute a**
 9 **quorum. If a township board has an even number of members, the**
 10 **township executive shall serve as an ex officio member of the**
 11 **township board for the purpose of casting the deciding vote to**
 12 **break a tie.**

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SENATE MOTION

Madam President: I move that Senator Clark be added as second author of Senate Bill 638.

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 638, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"Sec. 1. This chapter does not apply to a township in a county containing a consolidated city."

Page 1, line 5, delete "1." and insert "2."

Page 1, line 8, delete "2." and insert "3."

Page 1, line 11, delete "3." and insert "4."

Page 2, delete lines 3 through 8, begin a new paragraph and insert:

"Sec. 5. (a) The township trustees, with the approval of a majority of the members of the township legislative body of each township that wants to merge township governments under this chapter must comply with this section.

(b) The township trustees must present identical resolutions approving the township government merger to the trustees' respective township legislative bodies. A township legislative body may adopt a resolution under this chapter only after the legislative body has held a public hearing concerning the proposed merger. The township legislative body shall hold the hearing not earlier than thirty (30) days after the date the resolution is introduced. The hearing shall be conducted in accordance with IC 5-14-1.5 and notice of the hearing shall be published in accordance with IC 5-3-1.

(c) The township legislative bodies may adopt the identical resolutions approving the township government merger under this chapter not later than ninety (90) days after the legislative body has held the public hearing under subsection (b). The townships shall submit the resolutions to the county legislative body of the county within which the townships are located."

Page 2, line 9, delete "(b)" and insert "(d)".

Page 2, line 15, delete "(c)" and insert ""(e)".

Page 2, line 19, delete "(d)" and insert "(f)".

Page 2, line 22, delete "(e)" and insert "(g)".

Page 2, line 24, delete "5." and insert "6."

Page 2, line 25, after "qualified." insert **"An officer elected to represent the merged township government shall be considered to be a resident of the territory comprising the new township government unless the township merger is dissolved under**

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IC 36-6-1.6."

Page 2, line 26, delete "6." and insert "7."

Page 2, line 31, delete "7." and insert "8."

Page 3, line 12, delete "8." and insert "9."

Page 3, line 41, delete "9." and insert "10."

Page 4, line 13, delete "10." and insert "11."

Page 4, line 30, delete "11." and insert "12."

Page 5, between lines 12 and 13, begin a new paragraph and insert:

"Sec. 3. (a) Freeholders may initiate proceedings to reestablish a township government by filing a petition in the office of the county auditor of the county where the freeholder's land is located. The petition must be signed by the lesser of:

(1) at least ten percent (10%) of; or

(2) at least fifty (50);

freeholders owning land within the proposed reestablished township. A petition may also be filed with the county auditor by a merged township government under a resolution adopted by the legislative body of the township government."

Page 5, line 13, delete "Sec. 3. (a)" and insert "**(b)**".

Page 5, line 19, delete "(b)" and insert "**(c)**".

and when so amended that said bill do pass.

(Reference is to SB 638 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 8, Nays 2.

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